

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 22584)
of Eugene F. Oneto, et al, to)
Appropriate from Paramae Gulch in) Decision 1303
Calaveras County)

DECISION APPROVING APPLICATION

Eugene F. Oneto, et al, having filed Application 22584 for a permit to appropriate unappropriated water; protests having been received; the applicants and protestants having stipulated to proceedings in lieu of hearing as provided for by Title 23, California Administrative Code, Section 737; an investigation having been made by the State Water Rights Board (predecessor of the State Water Resources Control Board) pursuant to said stipulation; the Board, having considered all available information and now being fully advised in the premises, finds as follows:

1. Application 22584 is for a permit to appropriate 0.068 cubic foot per second by direct diversion, year-round, and 5 acre-feet per annum by storage

from November 1 of each year to June 1 of the succeeding year for domestic and irrigation purposes from Paramae Gulch in Calaveras County. The points of diversion are to be located within the SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 8, T5N, R13E, MDB&M.

2. Paramae Gulch heads on the applicants' land at an approximate elevation of 2,700 feet and courses in a southeasterly direction approximately 4,000 feet to join Jack Nelson Creek. Jack Nelson Creek continues approximately 1,000 feet in a southerly direction to join Esperanza Creek, which enters North Fork Calaveras River approximately 3 miles downstream. A surface flow connection does not usually exist between Paramae Gulch and Calaveras River during the period July through October. On August 29, 1967, the time of the field investigation on Application 22584, the flow in the gulch was 7 gallons per minute and the source of water was springs.

3. The applicants have recently cleared approximately 40 acres of native dense vegetation and have planted approximately 6 acres of walnut trees. They plan to clear an additional 40 acres and the entire cleared acreage will be planted in walnut trees within the next 4 or 5 years.

4. The applicants' clearing operation will salvage approximately 10 percent of the total precipitation reaching the land. As the long-term mean annual rainfall in the area of the applicants' project is approximately 28 inches, approximately 19 acre-feet of additional runoff will be created annually. The applicants intend to limit their irrigation of the young trees to 10 gallons of water per tree each year, or a maximum of 40,000 gallons per year from Paramae Gulch for the entire orchard. When the trees are established they will no longer be irrigated, but will depend on natural rainfall.

5. Protestant Stockton and East San Joaquin Conservation District holds License 2021 and Permit 14511 to appropriate water from the Calaveras River. It also claims riparian and overlying rights to water from the river and rights to water from the New Hogan Project under contract with the U. S. Bureau of Reclamation (hereinafter referred to as "the Bureau").

6. During the period when the applicants will be irrigating, the runoff created by the applicants' clearing program will be in excess of the water consumed by the young trees and no harm will result to the

protestant from the project. When irrigation ceases, the mature trees will use no more water than the brush and trees cleared by the applicants, and the protestant will not be harmed by the applicants' project at that time.

7. The applicants intend to store water in 3 storage ponds which will have a total storage capacity of approximately 5 acre-feet. One of the ponds has been constructed. As fish will be stocked in these ponds and the water will be used for the watering of several head of cattle, stockwatering and recreation should be added to the uses specified in Application 22584.

8. Decision D 1179, adopted April 21, 1964, by the State Water Rights Board, in approving the Bureau's Application 18812 covering its New Hogan Project, provided that the permit issued be subject to future appropriations for stockwatering within the Calaveras River watershed above New Hogan Dam. The applicants' intended use of water in the ponds for stockwatering brings this portion of their project within the reservation made by Decision D 1179.

9. Unappropriated water is available to supply the applicants, and, subject to suitable conditions,

such water may be diverted and used in the manner proposed without causing substantial injury to any lawful user of water.

10. The intended use is beneficial.

11. As Paramae Gulch flows through the applicants' land, they may have a riparian right to use water from the gulch. The permit issued on Application 22584 should contain a term stating that use of water under any riparian right and the right acquired under the permit to direct diversion without storage shall not result in a combined right to the use of water in excess of that which could be claimed under the larger of the two rights.

12. The permit issued on Application 22584 should be subject to a written stipulation entered into between the applicants and Werner C. and Elizabeth Van Golden received by the State Water Rights Board on March 27, 1967, and on file with Application 22584, to the extent that the matters contained therein are within the jurisdiction of the State Water Resources Control Board.

From the foregoing findings, the Board concludes that Application 22584 should be approved

and that a permit should be issued to the applicants subject to the limitations and conditions set forth in the following order.

The records, documents, and other data relied upon in determining the matter are: Applications 22584, 21818 and 21753 and all relevant information on file therewith, particularly the report of the field investigation made August 29, 1967; State Water Rights Board Decision D 1179; Bulletin No. 23-25, Report of Sacramento-San Joaquin Water Supervision for 1955 of State of California, Department of Water Resources, Division of Resources Planning; and U.S.G.S. streamflow records.

ORDER

IT IS HEREBY ORDERED that Application 22584 be amended to show domestic, irrigation, stockwatering, and recreation as the purposes for which the water is to be used.

IT IS FURTHER ORDERED that Application 22584 be, and it is, approved and that a permit be issued to the applicants subject to vested rights and to the following limitations and conditions:

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 0.068 cubic foot per second by direct diversion to be diverted year-round and a total of 5 acre-feet per annum by storage in 3 reservoirs to be collected from about November 1 of each year to about June 1 of the succeeding year. The equivalent of such continuous flow allowance for any 30-day period may be diverted in a shorter time if there be no interference with vested rights.

This permit does not authorize collection of water to storage outside the specified season to offset evaporation and seepage losses or for any other purpose.

2. After the initial filling of the storage reservoirs, permittee's right under this permit extends only to water necessary to keep the reservoirs full by replacing water beneficially used and lost by evaporation and seepage, and to refill if emptied for necessary maintenance or repair.

3. The maximum quantity herein stated may be reduced in the license if investigation warrants.

4. Construction work shall be completed on or before December 1, 1970.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1971.

6. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Water Resources Control Board until license is issued.

7. All rights and privileges under this permit, including method of diversion, method of use, and quantity of water diverted are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

8. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

9. Upon a judicial determination that the place of use under this permit or a portion thereof is entitled to the use of water by riparian right, the right so determined and the right acquired under this permit to direct diversion without storage shall not result in a combined right to the use of water in excess of that which could be claimed under the larger of the two rights.

10. This permit is subject to a written stipulation entered into between the applicants and Werner C. and Elizabeth Van Golden on file with the Board (Application 22584) to the extent that the matters contained therein are within the Board's jurisdiction.

Adopted as the decision and order of the State Water Resources Control Board at a meeting duly called and held at Costa Mesa, California.

Dated: **MAY 16 1968**

/s/ George B. Maul
George B. Maul, Chairman

/s/ W. A. Alexander
W. A. Alexander, Vice Chairman

/s/ Ralph J. McGill
Ralph J. McGill, Member

/s/ Norman B. Hume
Norman B. Hume, Member

/s/ E. F. Dibble
E. F. Dibble, Member